PP

v.

SELVARAJOO RAMACHANDRAN & ORS

HIGH COURT MALAYA, JOHOR BAHRU
AZAHAR MOHAMED JC
[CRIMINAL APPEAL NO: 42-3-2002 (4)]
20 JANUARY 2005

CRIMINAL PROCEDURE: *Appeal - Acquittal, against - Respondents charged under ss. 3(a)(ii) and 4(a) Prevention of Corruption Act 1961 - Whether prima facie case made out - Whether learned sessions court judge erred in law and in fact in acquitting respondents without calling for their defence*

EVIDENCE: *Accomplice - Corruption cases - Respondents charged under ss. 3(a)(ii) and 4(a) Prevention of Corruption Act 1961 - Whether prosecution's witnesses accomplices - Whether s. 18 Prevention of Corruption Act 1961 protected said witnesses - Whether learned sessions court judge erred in law and in fact*

This was an appeal by the public prosecutor against the decision of the learned sessions court judge ('the SCJ') acquitting and discharging the three respondents at the close of the prosecution's case on the ground that a *prima facie* case had not been made out against the respondents. The respondents had been charged under ss. 3(a)(ii) and 4(a) of the Prevention of Corruption Act 1961 ('the Act') of soliciting gratification from one Suroso ('PW4'), and accepting gratification from one Khairul ('PW3') and PW4, instead of taking action against them for allegedly possessing six forged passports belonging to Indonesian citizens. The critical issue requiring determination in this appeal revolved around the question of whether, in the circumstances of this case, PW3, PW4 and PW7 ('PW4's wife') were accomplices in the corrupt transaction. The SCJ was of the view that they had fully participated in the negotiations and were willing and prepared to pay the money. She held that these three witnesses were accomplices and, thus, s. 18 of the Act did not protect them. The public prosecutor contended that the SCJ had erred in law and in fact in reaching her decision.

Held (allowing the appeal):

[1] After scrutiny of all the evidence in its proper perspective and in the appropriate context, it was clear that PW3, PW4 and PW7 were not willing participants in giving the money to the respondents. It was clear that they had no choice and that they only finally agreed to pay because of the pressure put on them by the respondents. These witnesses did not offer the bribe and it was the respondents who took the initiative by demanding the money from them. In the circumstances, these witnesses were not accomplices, which was something the SCJ ought to have taken into consideration. This failure by the SCJ was a serious misdirection by way of non-direction occasioning a failure of justice. The SCJ, in committing this error, had arrived at a wrong decision having regard to the entire evidence of this case. The SCJ had, thus, erred in ruling that s. 18 of the Act did not protect PW3, PW4 and PW7. Since these witnesses were not accomplices, it therefore followed that they should not be presumed to be unworthy of credit. (p 121 b-h)

[2] In the instant case, there were no material contradictions in the evidence of these witnesses that rendered their evidence wholly unreliable, and upon evaluation and scrutiny, the following facts had been proved. In regard to the first charge under s. 3(a)(ii) of the Act, it was not disputed that the respondents were the agents of the government of Malaysia and that all the respondents had solicited gratification from PW4 as inducement to the respondents not to initiate action against PW4. In regard to the second and third charges under s. 4(a) of the Act, it had been proved that all the respondents had accepted gratification from PW3 and PW4 respectively as inducement to refrain from taking action against both of them. (pp 123 h & 124 a-c)

[3] If the SCJ had evaluated and scrutinized carefully the evidence adduced by the prosecution, she would have decided that a *prima facie* case had been made out. In the circumstances of this case and taking into consideration all the evidence adduced in its entirety, the SCJ had erred in law and in fact when she discharged and acquitted the respondents at the close of the prosecution's case without calling for their defence. Accordingly, the public prosecutor's appeal was allowed and the order of acquittal and discharge of the respondents was set aside, and the SCJ was directed to call for the defence of the respondents on all the three charges. (p 124 d-f)

[Ordered accordingly.]

Case(s) referred to:
Balachandran v. PP [2005] 1 CLJ 85 FC ***(foll)***
Daimon Banda v. PP [1951] 17 MLJ 11 ***(foll)***
Looi Kow Chai & Anor v. PP [2003] 1 CLJ 734 ***(foll)***
Mohamed Taufik v. PP [1975] 1 MLJ 36 ***(foll)***
Ng Kok Lian & Anor v. PP [1983] 2 CLJ 247; [1983] CLJ (Rep) 293 FC ***(foll)***
Wee Boh Soh v. Rex [1947] 13 MLJ 39 ***(refd)***

Legislation referred to:
Prevention of Corruption Act 1961, ss. 3(a)(ii), 4(a), 18

For the appellant - Kho Kheng Fuei DPP
For the respondents - Vinoben Mathiavaranam; M/s Gana Muthusamy & Co

Reported by Suresh Nathan

JUDGMENT

Azahar Mohamed JC:
This appeal arose out of three charges under s. 3(a)(ii) and s. 4(a) of the Prevention of Corruption Act 1961 (the Act) for which the three respondents were acquitted and discharged by the learned sessions court judge on 26 October 2001 at the close of the case for the prosecution. The learned sessions court judge found that the prosecution had not made out a *prima facie* case against the respondents. It is against this decision that the Public Prosecutor has filed this appeal. The respondents were police personnel attached to Ibu Pejabat Polis Daerah, Johore Bahru. The respondents were charged with the following offences and tried jointly:

First Charge

> Bahawa kamu bersama-sama pada 27.8.97, di antara jam 9.30 malam hingga 10.30 malam, di tapak projek perumahan Taman Sri Alam Masai, dalam Daerah Johor Bahru Tengah, dalam Negeri Johor sebagai agen-agen Kerajaan Malaysia iaitu KOPERAL 103713 SELVARAJOO A/L RAMACHANDRAN, KOPERAL 88450 CHANDRAN A/L KRISHNAN dan LAN KOPERAL 100164 RASINDRAN A/L KARUPPIAH telah secara rasuah memujuk rayu untuk diri kamu satu suapan, iaitu wang tunai RM10,000/- daripada Suroso bin Sukani sebagai dorongan untuk tidak melakukan suatu perbuatan berhubung dengan hal ehwal prinsip kamu, iaitu tidak mengambil tindakan ke atas Suroso bin Sukani yang dikatakan memiliki 6 paspot rakyat Indonesia yang disyaki palsu serta melindungi mereka, dan dengan itu kamu telah melakukan satu kesalahan di bawah Seksyen 3(a)(ii) Akta Pencegah Rasuah 1961 yang boleh dihukum di bawah seksyen 3 Akta yang sama.

Second Charge

Bahawa kamu bersama-sama pada 27.8.97, pada jam 11.00 malam, di tapak projek perumahan Taman Sri Alam Masai, dalam Negeri Johor, sebagai agen-agen Kerajaan Malaysia iaitu KOPERAL 103713 SELVARAJOO A/L RAMACHANDRAN, KOPERAL 88450 CHANDRAN A/L KRISHNAN dan LAN KOPERAL 100164 RASINDRAN A/L KARUPPIAH telah secara rasuah menerima untuk diri kamu satu suapan, iaitu wang tunai RM1,000/- daripada Khairul Anam bin Mohd. Toha sebagai dorongan untuk tidak melakukan suatu perbuatan berhubung dengan hal ehwal prinsip kamu, iaitu tidak mengambil tindakan ke atas Khairul Anam bin Mohd. Toha yang dikatakan memiliki 6 paspot rakyat Indonesia yang disyaki palsu dan melindungi mereka, dan dengan itu kamu telah melakukan satu kesalahan di bawah Seksyen 4(a) Akta Pencegah Rasuah 1961 yang boleh dihukum di bawah Seksyen yang sama.

Third Charge

Bahawa kamu bersama-sama pada 27.8.97, pada jam 11.00 malam, di tapak projek perumahan Taman Sri Alam Masai, dalam Negeri Johor, sebagai agen-agen Kerajaan Malaysia iaitu KOPERAL 103713 SELVARAJOO A/L RAMACHANDRAN, KOPERAL 88450 CHANDRAN A/L KRISHNAN dan LAN KOPERAL 100164 RASINDRAN A/L KARUPPIAH telah secara rasuah menerima untuk diri kamu satu suapan, iaitu wang tunai RM3,000/- daripada Suroso bin Sukani sebagai dorongan untuk tidak melakukan suatu perbuatan berhubung dengan hal ehwal prinsip kamu, iaitu tidak mengambil tindakan ke atas Suroso bin Sukani yang dikatakan memiliki 6 paspot rakyat Indonesia yang disyaki palsu dan melindungi mereka, dan dengan itu kamu telah melakukan satu kesalahan di bawah Seksyen 4(a) Akta Pencegah Rasuah 1961 yang boleh dihukum di bawah Seksyen yang sama.

It is the case for the prosecution that at about 9.40pm on 27 August 1997 Suroso bin Sukani (PW4) and his wife Siti Fatorna bt Sakur (PW7), both Indonesian citizens, left their home, which was a rumah kongsi at a construction site at Taman Sri Alam to go to Masai, a town not far from their home. They left in a Honda Civic belonging to Khairul (PW3). Earlier that evening PW4 had exchanged his car with PW3 who was his cousin. A few minutes later, they noticed a police patrol car in the vicinity. Their car was stopped and the three respondents got out from the said police car. The respondents were on crime prevention rounds together with Kpl. Abdul Nasir (PW6), the driver of the police patrol car. The three respondents searched the Honda Civic driven by PW4. They found 6 Indonesian passports (SPLP) in the booth of the said car. When questioned, PW4 and PW7 were not able to confirm if these passports were genuine or otherwise, whereupon the lst respondent got into the driver seat of the Honda Civic and drove it back to the construction site at Taman Sri Alam, with the 3rd respondent, PW4 and

PW7 in the car. The 2nd respondent got into the police patrol car and followed them to the construction site. Upon reaching the construction site, everyone except for PW6 got out from both the cars. According to PW4 and PW7, at this juncture all the respondents told him that the passports were false and demanded a sum of RM10,000 to close the case. PW4 then explained to them that he did not know that there were passports in the booth as the Honda Civic and passports belonged to PW3. PW4 was then allowed to use his hand phone to contact PW3. PW4 managed to contact PW3 and urged him to return immediately to the construction site. PW3 reached the scene about half an hour later. According to PW3 when he arrived at the site he saw PW4 with the three respondents. PW4 explained to PW3 what had transpired earlier and requested him to deal directly with the three respondents. PW3 explained to them that the passports were not false but belonged to his employer who had asked him to apply for work-permits for the passport holders. PW3 said the three respondents refused to believe him and threatened to seize the cars and arrest them if the money was not paid. PW3 said that the passports were eventually returned to him after the payment of RM4,000 to the respondents. The following day PW3 made a police report to the Anti Corruption Agency (ACA). ACA officers picked up the next day the three respondents. I should perhaps mention here that in the course of PW6's evidence, the prosecution applied to have him declared as a hostile witness. This application was made, as there was contradiction in his evidence in examination-in-chief and his statement to the ACA as regards firstly, whether there was any discussion between the three respondents and PW3 at the construction site; secondly, as regards whether on the way back to the police station he was given RM50 notes by the 3rd respondent. The learned session court judge allowed the application in view of the aforesaid contradictions.

What I have set out a moment ago, I think, forms a fair summary of the case for the prosecution upon which each ingredient of the three charges must be established in order to make out a *prima facie* case against the respondents.

Although the learned DPP has 10 grounds in his petition of appeal, I think the critical issue, which requires determination in this appeal revolves around the question whether or not in the circumstances of this case PW3, PW4 and PW7, were accomplices, which are grounds 3.2, and 3.4. The learned sessions court judge in her grounds of judgment was of the view that all the three witnesses had played an active role in the corrupt transaction. It was her view that they had fully participated in the negotiations and were willing and prepared to pay the money. She placed heavy reliance on the case of *Wee Boh Soh v. Rex* [1947] 13 MLJ 39 to hold that these three witnesses were accomplices and thus, s. 18 of the Act did not protect them.

In my view, the answer as to whether these witnesses were accomplices or not lies in the judgment of Salleh Abas CJ (Malaya) (as His Lordship then was) in the case of *Ng Kok Lian & Anor v. Public Prosecutor* [1983] 2 CLJ 247; [1983] CLJ (Rep) 293, where His Lordship speaking for the Federal Court said:

> To be an accomplice the witness who received the bribe must be the one who was abetting the offence of giving it committed by the accused, the giver. Only then would the receiver be regarded as particeps criminis. This means that just as the giver as a principal offender requires mens rea, so does an accomplice witness who received the gratification. If he received gratification innocently or without any corrupt motive or if he did not received it at all, although it was given to him, as far as he is concerned the gift did not change its character to become an illegal gratification just because the giver (the accused) gave it with corrupt motive or with evil intention. *Thus in every case when the issue is raised that a witness is an accomplice the court must study the evidence and make the necessary finding. There can be no rule of law or evidence that a witness is automatically an accomplice just because of his actus reus. The whole idea is completely contrary to the basic concept of criminal liability.* (emphasis added)

In *Mohamed Taufik v. PP* [1975] 1 MLJ 36, Abdul Hamid J (as His Lordship then was) stated much to the same effect at p 38:

> In the instant case although the learned President had not made any finding whether Wong was an accomplice, I do not think it can be seriously argued that, in regard to the first charge, Wong was an accomplice. Faced with the appellant's demand for $1,000 and considering the fact that the appellant had not for a moment left Wong's company until Wong handed part of the amounts solicited, it is quite apparent that Wong had no alternative whatever but to raise the money asked for by the appellant and indeed he handed to the appellant every cent that he managed to raise. Wong had not played any active part in the transaction. He made no offer to bribe the appellant and evidently had no opportunity to report the matter to any one.

And further down, His Lordship said:

> On the basis that the witness is not an accomplice, it is therefore my view, that the learned President's failure to warn himself of the danger of convicting on the uncorroborated evidence of an accomplice cannot be said to constitute a valid ground sufficient to quash the conviction.

It is therefore necessary for me to scrutinize carefully the manner and the circumstances in which these witnesses gave the money to the respondents. In this regard, PW3 in his testimony said:

> Suroso dan isterinya beritahu polis kata barang yang saya bawa adalah palsu – iaitu passport. Polis juga ada di sana. Saya jawap pada ketiga polis passport tak palsu. Saya kata ini passport pekerja yang saya bawa-adalah sah. Ada seorang polis kata kalau tak dapat bayar duit kepada kita orang, kereta saya dan kereta Suroso, saya dan isteri akan di tangkap dan kereta di tahan.
>
> Selepas itu jadi tawar-menawar duit. Dia kata satu passport RM10,000. Lalu kita sanggup bayarnya dan saya minta tidak dikenakan apa-apa tindakan terhadap saya. Saya kata passport ini adalah betul. Saya cuba merayu untuk dilepaskan tetapi gagal. Ketiga-tiga anggota polis kata tidak boleh. Lepas itu polis meminta RM10,000 untuk semua passport. Saya menolak dan cuba merayu lagi untuk dibebaskan tanpa apa-apa.
>
> Lepas itu ketiga-tiga polis minta RM5,000 untuk semua passport dan saya menolaknya. Saya merayu dilepaskan tanpa sebarang apa-apa lagi. Polis kata RM4,000 untuk semua passport dan memaksa saya membayar dia-iaitu ketiga-tiga. Kita cuba merayu lagi untuk tidak dikenakan wang begitu kerana masa itu saya tak memiliki wang. Polis kata kalau kita tak bayar RM4,000 saya dan saudara dan kereta akan ditangkap. Mereka memaksa kita bayar pada waktu itu juga.

With regard to the manner and the circumstances in which the money was demanded and paid, PW 4 explained:

> Lepas itu polis itu gertak saya dan mahu bawa saya ke balai polis. Saya dan isteri ada masa itu. Mereka kata itu passport palsu. Saya kata ini barang bukan saya, milik SP3.

Continuing with his evidence, this is what PW4 said:

> Polis minta duit RM10,000. Ketiga-tiga minta duit. Mereka kata passport palsu. Duit ini untuk tutup kes, OKT juga ada bersama. Saya beritahu tiada wang RM10,000. Saya juga kata ini barang bukan saya tapi milik SP3.

In this regard, the material part of the evidence of PW7 goes this way:

> Mereka check belakang kereta. Mereka keluarkan SPLP dari bonet kereta. Ketiga-tiga OKT keluarkan SPLP. Mereka kata SPLP palsu. Ada 6 SPLP.

> Suami kata ini bukan kami punya ini kepunyaan KhairUl Anam. Ketiga-tiga kata kerana SPLP palsu-runding-minta RM10,000 untuk tutup kes. Lepas itu suami cakap ini bukan saya punya. Ini kereta bukan saya punya-kita pinjam dari Khairul. Suami telefon Khairul suruh datang dengan telefon tangan.

After scrutinizing all their evidence in its proper perspective and in the appropriate context, it is clear to me that PW3, PW4 and PW7 were not willing participants in giving the money to the respondents. It is clear to me that they had no choice and that they only finally agreed to pay because of the pressure put on them by the respondents. In the circumstances of this case, faced with the respondents' demand and threat they had little choice but accede to their demand. To my mind, these witnesses did not offer the bribe but it was the respondents who took the initiative by demanding the money from them. In the circumstances, I am of the view that these witnesses were not accomplices. In my view, these are important considerations, which the learned sessions court judge ought to have taken into consideration. Nowhere in her grounds of judgment did the learned sessions court judge direct her attention to this point. This is a serious misdirection by way of non-direction, which has occasioned a failure of justice. The learned sessions court judge was in serious error to ignore and to overlook the evidence that I have adverted to earlier, and as the result of the error she had arrived at a wrong decision having regard to the entire evidence.

This brings me to the ruling of the learned sessions court judge that s. 18 of the Act did not protect PW3, PW4 and PW7. A moment ago I have said that these witnesses were not accomplices; it therefore follows that these witnesses should not be presumed to be unworthy of credit because it was not these witnesses who in the first place offered them. In *Daimon bin Banda v. PP* [1951] 17 MLJ 11, Taylor J said at p 11

> The effect of the new provision is that in corruption cases the mere fact that a man has made an improper payment is not by itself enough to brand the man as a person whose evidence, if uncorroborated, is probably untrustworthy. If the man has taken part in the transaction in such a way as to show that, apart from the bare payment, he was an accomplice, then the ordinary rule applies.

The learned sessions court judge had therefore erred in making the ruling that s. 18 of the Act has no application. These witnesses were persons who should not be presumed to be unworthy of credit. And in this regard for the reasons that I have stated above, I am of the view of the view that the learned sessions court judge was in serious error when she relied on the case of *Wee Boo Soh v. Rex (supra)* without making any reference to the cases of *Ng Kok Lian, Daimon* and *Mohamed Taufik (supra).*

While on the issue of accomplice, the learned DPP also argued that the learned sessions court judge erred in law and fact when she failed to rule that even though PW3, PW4 and PW7 were accomplices, the court could still convict the respondents based only on their uncorroborated evidence. In view of what I have said just now that these witnesses were not accomplices, strictly it is not necessary for me to deal with this issue but I would like to say something about it. The law relating to accomplice's evidence is well established. It is this. It is a rule of practice that it is not safe to convict solely on such evidence unless the accomplice evidence is corroborated in material particulars. However, a trial judge is unconstrained, after maximum evaluation of the evidence of the accomplice, convict an accused person if without corroboration he is convinced of the truth of such evidence and that it is sufficient to show that the prosecution has proved its case beyond reasonable doubt against the accused person.

In her grounds, the learned sessions court judge also ruled that the failure to call Sunari and Yantok as witnesses caused a serious effect in the prosecution's case. When PW4 was asked about Sunari and Yantok, he explained it in this way:

> Saya dan isteri jumpa Sunari dan pinjam RM2,500 darinya. Dia tinggal di Kongsi Sri Alam. Sekarang dia sudah balik kampung si Surabaya. Saya dapat RM2,500 dari Sunari. Dapat lagi RM500 dari isteri saya-dia pinjam dari kawan saya-Yantok. Dia sudah balik Indonesia sekarang. Duit RM3,000 saya beri polis OKT1. Dia kira duit dengan OKT 2 dan OKT 3-tiga-tiga kira duit.

Looking at the facts of the present case it is my view that the evidence of these two witnesses are not essential to the unfolding of the narrative on which the prosecution is based; a *prima facie* case can be established without their testimony. The prosecution has adduced evidence why they were unable to call him. Thus, the learned sessions court judge had again misdirected herself on this matter and as the result of the serious error she had arrived at an erroneous decision.

The learned sessions court judge also ruled that the failure of the prosecution to tender the passports caused a serious gap in the prosecution's case. In my view the issue of the validity of the passport is not a crucial issue in this matter. In this regard whether the respondents actually committed any offence under the Passport or the Immigration legislations or any other offences under any written laws is irrelevant and not material in this case; it is not an ingredient of any of the three charges. It therefore follows that the learned sessions court judge had misdirected herself in making such an adverse inference.

I think it is appropriate at this stage that I deal with the submission of the learned counsel for the respondents on the cautioned statements of the respondents, which are exculpatory in nature. It was argued that these statements showed that the respondents were not guilty of any offences and that they raised a reasonable doubt as to their guilt. In this regard, His Lordship Augustine Paul JCA speaking for the Federal Court recently in the case of *Balachandran v. PP* [2005] 1 CLJ 85 said at p. 91:

> It is settled law that an exculpatory statement cannot form the basis of an order in favor of an accused person at the close of the case for the prosecution as the accused, not having given evidence at that stage, cannot rely on the statement without it having been tested by cross examination.

Now, I am guided by the established principle that in an appeal against acquittal, the powers of the High Court are as wide as in appeals from conviction. An appellate court may reverse an order of acquittal even if such acquittal is founded on the findings of facts by the trial court if the so-called finding of facts suffer from serious error or the decision is against the weight of evidence and in the process of arriving at the conclusion of fact the trial misdirected itself as to the law. However, I should and will always give proper consideration to the following. Firstly, the presumption of innocence in favor of the respondents and, secondly as an appellate judge I should be very slow in disturbing a finding of fact arrived at by a trial judge who had the advantage of seeing and hearing the witness.

I have already said earlier that there has been misdirection by the learned sessions court judge to herself as to certain aspect of the evidence and the law relating to accomplices. This serious misdirection is of itself a sufficient ground to justify interference of the decision of the learned sessions court judge. I have evaluated carefully the evidence of the prosecution to the maximum and I have also scrutinized carefully the entire evidence contained in the appeal record. In this respect, I think it is important to keep in mind that in most cases, as in the present case, there are bound to be some form of discrepancies and contradictions in the testimonies of witnesses. Such discrepancies and contradictions only become fatal if the testimonies are entirely unreliable for the reason that the witnesses' testimonies on vital and significant matter are so irreconcilable. Further, there is no rule of law that the testimony of a witness must either be believed in its entirety or not at all. In the case at hand, I do not detect any material contradictions or discrepancies in the evidence of these witnesses, which render their evidence wholly unreliable. In my judgment, upon such evaluation and scrutiny of these witnesses as I have said a moment ago, the following facts have been proved. In regard to the first charge under s. 3(a)(ii) of the Act, it is not disputed

that the respondents were the agents of the government of Malaysia. Based on the evidence of PW3, PW4 and PW7 it has been proved that all the respondents had solicited gratification from PW4 as an inducement to the respondents not to initiate action against PW4 who was alleged to have in his possession 6 forged Indonesian citizen passports and for sheltering them. In regard to the second charge under s. 4(a) of the Act, based on the evidence of PW3, PW4 and PW7 it has been proved that all the respondents had accepted gratification, a sum of RM1,000 from PW3 as an inducement to refrain them from taking action against PW3 for an alleged offence of possession of 6 forged Indonesian citizens passports and for sheltering them. In regard to the third charge under s. 4(a) of the Act, based on the evidence of PW3, PW4 and PW7 it has been proved that all the respondents had accepted gratification, a sum of RM3,000 from PW4 as an inducement to refrain them from taking action against PW4 for an alleged offence of possession of 6 forged Indonesian citizen passports and for sheltering them.

Had the learned sessions court judge evaluated and scrutinized carefully the whole evidence adduced by the prosecution and subjected the prosecution evidence to maximum evaluation, she would have decided that a *prima facie* case had been made out in line with the guideline laid down by Court of Appeal in the case of *Looi Kow Chai & Anor v. PP* [2003] 1 CLJ 734 and the recent Federal Court in *Balachandran v. PP (supra)*. In the circumstances of this case and taking into consideration all the evidence adduced in its entirety, it is my judgment that the learned sessions court judge erred in law and in fact when she discharged and acquitted the respondents at the close of case for the prosecution without calling for their defense. Accordingly, I would allow the appeal by the Public Prosecutor and I hereby set aside the order of acquittal and discharge of the respondents and I further hereby direct the learned session court judge to call for the defence of the respondents on all the three charges. The respondents will appear for mention before the sessions court on 27 Jan 2005 to fix a date for the continued hearing of the matter until its conclusion before the same learned sessions court judge. They are allowed bail, each in the sum of RM2,000 in one surety.